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AB

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/065,729 | 11/13/2002 | Ronald M. Buswell | BUR920020006 | 6166 |
| 23550 | 7590 | 11/17/2005 | EXAMINER | |
| HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FL ALBANY, NY 12207 | | | DOAN, DUYEN MY | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2143 | |

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/065,729 | BUSWELL ET AL. |
| | Examiner | Art Unit |
| | Duyen M. Doan | 2143 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 November 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-20 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As regarding claim 1, applicant claims "monitoring server for a command". It is unclear what is a command.

Examiner interprets the command is and an IP address or identification that posted on the server.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-12, 14-18, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Wick (us pat 6691162).

As regarding claim 1, Wick disclosed a client-server text messaging (CSTM) monitor installed on a computer system, the monitor configured to monitor a CSTM server for commands posted thereto (col.2, lines 14-20, col.5, lines 1-39); and a management program installed on the computer system which is responsive to the commands (col.5, lines 35-39, client monitor the server to see if there is a command (IP address, ID) of other chat client posted on the server, the client response back in response to that command).

As regarding claim 2, Wick disclosed the CSTM monitor and server are configured to function according to Internet relay chat protocol (col.2, lines 14-20, col.5, lines 1-39, IRC protocol is an inherent feature, the system of Wick enable client to perform chat or instant messaging).

As regarding claim 3, Wick disclosed the command is in the form of a text string (col.7, lines 23-30).

As regarding claim 4, Wick disclosed the command includes a preface, an identifier and an instruction for the management program (col.7, lines 23-30).

As regarding claim 5, Wick disclosed the CSTM monitor is also configured to post a response from the management program to the CSTM server (col.5, lines 1-23).

As regarding claim 6 Wick disclosed the CSTM server includes a log program configured to record CSTM server activities (col.5, lines 1-55, this is an inherent feature in the chat messaging system, server keep a log of all the activity between users).

As regarding claim 7, Wick disclosed the CSTM server is configured to receive commands from an update server (col.5, lines 1-39).

As regarding claim 9, Wick disclosed the management program is idle until it receives a command (see col.5, lines 1-55, this feature is well known in the chat system, chat client doesn't response to the command until the other client is posted a command on the chat server, then the client response to it).

As regarding claim 10, the limitations are similar to claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 11, the limitations are similar to claim 3, therefore rejected for the same rationale as claim 3.

As regarding claim 12, the limitations are similar to claim 2, therefore rejected for the same rationale as claim 2.

As regarding claim 14, the limitations are similar to claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 15, the limitations are similar to claim 2, therefore rejected for the same rationale as claim 2.

As regarding claim 16, the limitations are similar to claim 3, therefore rejected for the same rationale as claim 3.

As regarding claim 17, the limitations are similar to claim 4, therefore rejected for the same rationale as claim 4.

As regarding claim 18, the limitations are similar to claim 6, therefore rejected for the same rationale as claim 6.

As regarding claim 20, the limitations are similar to claim 5, therefore rejected for the same rationale as claim 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,13,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick as applied to claim1,10,14 above, and further in view of MacGregor et al (us 20050102382) (hereinafter MacGregor).

As regarding claim 8, Wick disclosed all limitations of claim 1 above but did not expressly disclosed the CSTM monitor is also configured to sense a problem in the computer system.

MacGregor taught the CSTM monitor is also configured to sense a problem in the computer system (pg.3, par 32-34; pg.4, par 46-48).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of MacGregor to the method of Wick to have the CSTM monitor is also configured to sense a problem in the computer system, because both Wick's invention and MacGregor's invention taught monitoring network in an instant messaging system.

A person with an ordinary skill in the art would have been motivated to combine the teaching of MacGregor to the method of Wick to have CSTM monitor to sense a problem in the computer network, because by sensing a problem in the computer would help the server in determining problems that occurs in the computer and enable devices, network and network objects to be managed with simple and powerful tools on a worldwide instant messaging network (see MacGregor pg.3, par 33; pg.4, par 46-48).

As regarding claim 13, the limitations are similar to claim 8, therefore rejected for the same rationale as claim 8.

As regarding claim 19, the limitations are similar to claim 8, therefore rejected for the same rationale as claim 8.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
Duyen Doan
Art unit 2143



DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100